

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Dated : 19.03.2020

Coram

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

WEB COPY

C.R.P. (MD).No.480 of 2020

S.S.Subramaniam

... Petitioner/Appellant

Vs.

1.A.G.Anita Daniel

2.Daniel

3.A.S.Subramanian

4.S.Subramanian

.... Respondents/Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order passed in I.A.No.4 of 2019 in A.S.No.61 of 2017 dated 04.01.2020 on the file of the 2nd Additional Sub-Court, Nagercoil.

For petitioner

:Mr.H.Arumugam

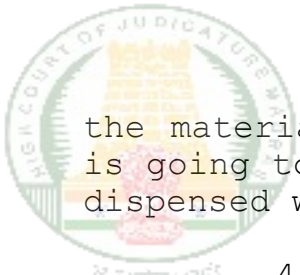
O R D E R

The petitioner is the plaintiff in O.S.No.271 of 2012. He filed the said suit for declaration and prohibitory injunction. After trial, the said suit was dismissed. Challenging the judgment and decree passed by the trial court, the petitioner filed an appeal in A.S.No.61 of 2017 on the file of the 2nd Additional Sub-Judge, Nagercoil. During pendency of the appeal, the petitioner wanted to file a reply statement to the written objection filed by the respondent/defendant and filed a petition in I.A.No.4 of 2019 to receive the reply statement to the written objection filed by the respondent/defendant in the suit. That petition was dismissed by the Appellate Court. Challenging the said order, the petitioner/appellant/plaintiff therein filed the present petition before this Court.

2.The learned counsel for the petitioner would submit that during the pendency of the suit, the petitioner herein/plaintiff was unable to file any reply statement to the original written statement filed by the 1st defendant. Therefore, he wanted to file a reply statement to the written statement filed by the 1st defendant. Hence, during the pendency of the appeal, he filed I.A.No.4 of 2019 to file his reply statement. The learned Appellate Judge failed to consider the scope and object of the petition. Therefore, the order passed by the appellate Court is liable to be set aside.

<https://hcservices.courts.gov.in/hcservices/>

3.Heard the learned counsel for the petitioner and perused



the materials on record. Considering the nature of the order that is going to be passed in this revision, notice to the respondents is dispensed with.

4. Admittedly, the suit was filed in the year 2012. Written statement was filed on the same year. But after completion of the pleadings, three issues were framed, trial was completed and the suit was dismissed. After dismissal of the suit, the petitioner filed an appeal. At the appellate stage, he wanted to file a reply statement to the original written statement filed by the 1st defendant before the trial court. Even though the learned counsel for the petitioner would submit that reply statement is not mandatory, the court also agrees that the reply statement is not form part of the pleadings. If the plaintiff wants to file a reply statement to the written statement, it is for him to file a reply. Even without filing reply, he can proceed with the same. In this case also, he could proceed with the original pleadings filed by the respective parties. But, now in the appellate stage, he wanted to file reply statement to the written statement filed before trial court, in which issues were framed, trial was completed and judgment was also delivered. Now challenging the judgment and decree passed by the trial court, he also filed an appeal. Now, in the appellate stage, it is not permissible. Therefore, this Court does not find any merit in this revision.

5. Accordingly, this civil revision petition is dismissed. No costs.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

vs

To

1. The 2nd Additional Sub-Court, Nagercoil

2. The Section Officer,

V.R. Section,

Madurai Bench of Madras High Court,

Madurai. (2C)

C.R.P. (MD) .No.480 of 2020

KK/14.05.2020/ 2P- 4C

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